THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.23237 of 2006

DATE:28.11.2007

Between:

Dhoolipala Ramakoteswara Rao

....Petitioner

and

The Government of Andhra Pradesh,
represented by its Principal Secretary,
Civil Supplies Department,
Secretariat, Hyderabad and others ....Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.23237 of 2006

ORDER:

Heard Sri C.Damodar Reddy, learned counsel representing the writ petitioner and the learned Assistant Government Pleader for Civil Supplies.

2. This writ petition is filed for a writ of mandamus declaring the action of the third respondent in issuing the notification in proceedings R.C.No.318/2006-B, dated 18.02.2006, notifying the vacancy of Irlapadu Fair Price Shop of Savalyapuram Mandal, Guntur District, as bad, arbitrary, illegal and violation of principles of natural justice and to pass such other suitable orders.

3. It is stated that the petitioner is the authorized dealer of Krishnapuram Fair Price Shop of Savalyapuram Mandal, Guntur District and there are only 369 cardholders from Krishnapuram and Irlapadu Villages, which are situated adjacent to each other. It is also stated that the petitioner had been distributing the essential commodities to the cardholders regularly, sincerely and without any complaint or remarks from the authorities and the cardholders/villagers. While so, to his utter surprise, the third respondent herein has issued notification, dated 18.02.2006, in his

proceedings R.C.No.318/2006-B notifying the vacancy of Irlapadu Fair Price Shop by bifurcating the Krishnapuram Fair Price Shop and invited the applications to fill up the said vacancy. It is further stated that immediately on 21.02.2006, he approached respondents 2 to 4 and requested them not to take any further steps to bifurcate and to fill up the said vacancy, as there are only 369 cardholders and it is contrary to the orders of the first respondent. It is stated that the respondents have considered his request and also felt that if the said shop is bifurcated, both shops will not have viability and assured him that they will not take any further action for bifurcation. It is further stated that he was shocked to know that the third respondent has issued notice, dated 28.10.2006, giving intimation to the applicants to attend the interviews scheduled on 04.11.2006 at 10.30 a.m. at his office. Again, he approached the respondents to stop the interviews and the selections, but the respondents have given a deaf ear and conducted interviews on 04.11.2006, but did not announce the selections so far.

4. Further, it is averred that in fact, there was no request or demand from the cardholders for formation of Irlapadu Fair Price Shop and there is no inconvenience for them in distribution of essential commodities. The petitioner reliably learnt that at the instance of local ruling party leaders and the local M.L.A., the third respondent has issued the said notification, dated 18.02.2006, and subsequently conducted interviews on 04.11.2006 and also making preparations to appoint the dealer for the said F.P. Shop. It is further stated that the third respondent has not issued any notice before bifurcation of Krishnapuram Fair Price Shop and the alleged bifurcation is contrary to the G.Os issued by the first respondent. In fact, the respondents can

bifurcate the shop, only if there are more than 500 cardholders. But in his fair price shop, there are only 369 cardholders. Thus, the action of the third respondent in issuing the impugned notification, dated 18.02.2006, and conducting interviews on 04.11.2006 is bad, arbitrary, illegal and violation of principles of natural justice. It is just and necessary to set aside the impugned notification, dated 18.02.2006, or else, he will be put to irreparable loss and hardship. It is also just and necessary to stay all further proceedings in pursuance of the said notification, pending disposal of the writ petition.

5. In the counter affidavit, it is stated that with a view to strengthen the Public Distribution System in Rural areas, the fourth respondent herein had initiated proposals to create new
F.P.shop for the convenience of card holders of Irlapadu village which is situated about a distance of 5 K.Ms. from the existing F.P.shop maintained by the present petitioner in this writ petition at Krishnapuram village following the card holders of about 304 Nos. apart from 16 AAY cards pertaining to the village. It is further stated that the second respondent District Collector had examined the proposals of the fourth respondent and issued orders directing the third respondent herein to initiate proposals for issue of notification to fill up the newly created F.P.Shop vacancy at Irlapadu village vide proceedings D.Dis.No.1765/2004/51, dated 16.03.2005. Basing on the direction of the second respondent herein, a notification has been issued by the third respondent calling for the applications among O.C. women candidates as a part of process for selection to the F.P. shop dealership for the newly created F.P.shop at Irlapadu village vide Rc.No.318/2004-B, dated 18.02.2006. It is also stated that both villages are not adjacent but at least there is a distance of 5 kms

between these villages. Further, it is averred that the fourth respondent had initiated proposals for the convenience of the cardholders of Irlapadu Village, which is situated at about 5 K.Ms. from the existing F.P. shop maintained by the present petitioner. In the year 2004 and after due process, notification orders have been issued by the third respondent in Rc.No.318/2004-B, dated 18.02.2006. It is submitted that the selection of candidate as F.P. shop dealer for the newly created F.P. shop at Irlapadu village could not be made due to the interim orders passed in the present writ petition by this Court in W.P.M.P.No.29591/2006 in W.P.No.23237 of 2006, dated 08.11.2006. Further, it is stated that creation of new F.P.shop at Irlapadu Village is only for the convenience of cardholders and not at the political instance.

6. This Court issued rule nisi on 08.11.2006 and granted interim direction in WPMP No.29591 of 2006 to the respondents not to disturb the cards allotted to the petitioner, until further orders. Bifurcation and creation of new fair price shops, no doubt, be in accordance with the circulars or the guidelines governing the field. As can be seen from the specific stand taken in the counter-affidavit, for the purpose of convenience of the concerned public only, the said decision had been taken. The writ Court cannot interfere with such creation of a fair price shop in the interest of public unless and until any illegality, as such, is pointed out.

7. Hence, the writ petition is devoid of merit. Accordingly, the same shall stand dismissed. No order as to costs.

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P.S.NARAYANA, J

28th November, 2007.

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